

**What is the Survivor Benefit Plan?**

The Survivor Benefit Plan (SBP) is a plan which provides for spouses after the death of retired or retirement-eligible Service members. The retired service member's pension is reduced by approximately 6.5% of a selected base amount and, upon the service member's death, the spouse receives 55% of the base amount for the remainder of his/her life.<sup>i</sup>

**How Do I Sign Up?**

You are automatically enrolled in the program at the maximum level upon retiring.<sup>ii</sup> Service members, upon or before retiring, may set the contributions to a lower level or zero but need consent from their spouse first.<sup>iii</sup> Service members who are retirement-eligible but still on active duty do not have to pay but their spouse **does** qualify for SBP if they die while still on active duty.<sup>iv</sup>

**What are the advantages and disadvantages of choosing SBP instead of Life Insurance?***Advantages*

There is no necessary physical examination and qualification is automatic. Deductions are from the total gross retired pay, so taxable income is reduced. If a widow, widower, or former spouse remarries before turning fifty-five, SBP is suspended and only activated upon divorce.<sup>v</sup> Payments are increased regularly by cost-of-living adjustments to keep up with inflation.<sup>vi</sup> After 30 years (360 payments) in the Plan, no further payment is necessary.<sup>vii</sup>

*Disadvantages*

The coverage may be relatively expensive and premiums increase in line with Cost of Living increases over time.<sup>viii</sup> There is no return if the non-military spouse dies first.<sup>ix</sup> As a general rule, SBP cannot be canceled. Any Dependency and indemnity Compensation (DIC) which is paid to the spouse will be subtracted from her/his SBP payments. DIC payments to or for children do not affect SBP payments.<sup>x</sup>

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i 10 USCS § 1452(a)(1)(A)

ii 10 USCS § 1448(a)(2)

iii 10 USCS § 1448(a)(3)

iv 10 USCS § 1448(d)(1)(A)

v 10 U.S.C. § 1450(b); Military Divorce Handbook p. 477.

vi 10 USCS § 1451(g); Military Divorce Handbook pp. 477-79

vii 10 USCS § 1452(j)

viii 10 USCS § 1452(a)(4)

ix <http://www.military.com/benefits/survivor-benefits/survivor-benefit-plan-faqs.html?comp=7000023431425&rank=2>

x Military Divorce Handbook pp. 477-79.

**How can I provide for my children?**

For an additional cost, children may be covered under this plan.<sup>xi</sup> The cost is dependent on the ages of the Service member, the spouse, and the youngest covered child. If both parents die, the children receive the 55% annuity until they are 18 (22 if they are in school). The annuity is split evenly among all eligible children. When one child is no longer eligible, that child's share is divided among the other children.<sup>xii</sup> If a child is married, they are ineligible regardless of age.<sup>xiii</sup> A child is eligible to receive the annuity if they have become disabled before turning 18 (or 22 if in school) for as long as the disability lasts and they are unmarried.<sup>xiv</sup>

**I want my child with special needs to receive his/her annuities in a "special needs" trust to avoid losing other benefits. Can I do that?**

Unfortunately not. The text of the act has been interpreted to restrict payment of annuities to "persons" and not trusts and the annuity is to be considered income<sup>xv</sup>. While legislation has been introduced to change the law, no legislation has since been passed.<sup>xvi</sup> You may wish to look into other life insurance programs in the private sector which do allow payment into a trust.

**What if I want to provide for my children but I do not have a living spouse, am divorced, or simply do not wish to cover my spouse?**

You may opt for child-only coverage. If you are married, this requires your spouse's consent.<sup>xvii</sup> Child-only coverage follows the same rules as spouse and child coverage except the annuity begins upon the Service member's death regardless of whether the other parent is still alive.<sup>xviii</sup> The cost is dependent on the Service member's age and the age of the youngest covered child.<sup>xix</sup>

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xi 10 USCS § 1452(a)(2)

xii 10 USCS § 1450 (a)(2); <http://www.military.com/benefits/survivor-benefits/sbp-spouse-and-children-coverage.html?comp=7000023431425&rank=4>

xiii 10 USCS § 1447(11)(A)(i)

xiv 10 U.S. Code § 1448(11)(A)(ii); <http://www.military.com/benefits/survivor-benefits/sbp-child-coverage-cost-and-benefits.html?comp=7000023431425&rank=1>

xv 10 USCS § 1450(h)

xvi <http://www.opencongress.org/bill/hr4329-112/show>

xvii 10 USCS § 1448 (a)(3)(A)(iii)

xviii 10 USCS § 1450 (a)(3)

xix <http://www.military.com/benefits/survivor-benefits/sbp-child-coverage-cost-and-benefits.html?comp=7000023431425&rank=1>

**How quickly must I notify the DFAS of a change of circumstances?**

Generally within a year. While the program rarely allows altering your contribution, changes in circumstances (marriage, divorce, death, birth, etc.) will generally allow for a change in your contribution rate.<sup>xx</sup> Discuss any matters with an attorney as soon as possible.

**What if the non-military spouse dies first?**

No money will be paid out through SBP. Upon receiving a death certificate, the DFAS will cease reductions and no additional money will be due.<sup>xxi</sup>

**What if we get a divorce?**

The Service member may send the Defense Finance and Accounting Service (DFAS) a copy of the divorce decree or death certificate within one year and the costs will be suspended.<sup>xxii</sup> If the Service member remarries, the Service member may reactivate the account with the option to devote more of his/her base pay to the program.<sup>xxiii</sup>

**What if I want coverage after the divorce?**

The Service member may cover the former spouse under Former Spouse Coverage by making a request to the DFAS. If, in divorce proceedings, the court orders Former Spouse Coverage as part of the divorce decree, the Service member must cover the spouse. The decree does not automatically create coverage, however. While the Service member is required to make the former spouse election, the former spouse should also send a copy of the divorce decree to DFAS with a request for coverage.<sup>xxiv</sup>

**What if I have more questions?**

Please go to the unofficial Military.com Survivor Benefit Plan FAQs page for a more comprehensive FAQ list or ask an attorney.

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xx <http://www.military.com/benefits/survivor-benefits/survivor-benefit-plan-faqs.html?comp=7000023431425&rank=2>

xxi 10 USCS § 1448 (a)(3)(A)(iii); <http://www.military.com/benefits/survivor-benefits/survivor-benefit-plan-faqs.html?comp=7000023431425&rank=2>

xxii 10 USCS § 1448 (a)(3)(A)(iii)

xxiii 10 USCS § 1448(a)(6)(C); <http://www.military.com/benefits/survivor-benefits/survivor-benefit-plan-faqs.html?comp=7000023431425&rank=2>

xxiv <http://www.military.com/benefits/survivor-benefits/sbp-former-spouse-coverage.html>